



OFFICE OF CONSUMER ADVOCATE

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June 26, 2008

Ms. Marlene Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S. W.
Washington, DC 20554

Re: In the Matter of Federal –State Universal Service
Board

Palmerton Telephone Company and North-Eastern
Pennsylvania Telephone Company

Petition for Waiver of Section 54.301(e)(1)
Submission Date for True-Up of 2006 Local
Switching Support Data

WC Docket No. 08-71

Dear Ms. Dortch:

Enclosed for filing please find Comments of the Pennsylvania Office of
Consumer Advocate In Support of Petition for Waiver in the above-referenced matter. Please
also note that these Comments have been filed with the Commission **electronically**.

Please indicate your receipt of this filing on the additional copy provided and
return it to the undersigned in the enclosed self-addressed, postage prepaid, envelope. Thank
you.

Sincerely yours,

A handwritten signature in cursive script, reading "Barrett C. Sheridan".

Barrett C. Sheridan
Assistant Consumer Advocate

Enclosure

cc: Best Copy & Printing, Inc. (via E-Mail)
Jennifer Prime/WCB (via E-Mail)
David Duarte/WCB (via E-Mail)
Tina Bobbyn/ICORE (via E-Mail)

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of Federal-State	:	
Universal Service Board	:	
	:	
PALMERTON TELEPHONE COMPANY	:	WC Docket No. 08-71
AND NORTH-EASTERN PENNSYLVANIA	:	
TELEPHONE COMPANY	:	
	:	
Petition for Waiver of Section 54.301(e)(1)	:	
Submission Date For True-Up of 2006	:	
Local Switching Support Data	:	

I hereby certify that I have this day served a true copy of the foregoing document, Comments of the Pennsylvania Office of Consumer Advocate In Support of Petition for Waiver, upon parties of record in this proceeding.

Dated this 26th day of June, 2008.

Respectfully submitted,



Barrett C. Sheridan
Assistant Consumer Advocate

Counsel for
Office of Consumer Advocate
555 Walnut Street, Forum Place, 5th Floor
Harrisburg, PA 17101-1923
(717) 783-5048

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of Federal-State	:	
Universal Service Board	:	
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PALMERTON TELEPHONE COMPANY	:	WC Docket No. 08-71
AND NORTH-EASTERN PENNSYLVANIA	:	
TELEPHONE COMPANY	:	
	:	
Petition for Waiver of Section 54.301(e)(1)	:	
Submission Date For True-Up of 2006	:	
Local Switching Support Data	:	

**COMMENTS OF THE
PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE
IN SUPPORT OF PETITION FOR WAIVER**

On May 22, 2008, Palmerton Telephone Company (Palmerton) and North-Eastern Telephone Company (NEP) filed a Petition for Waiver of Section 54.301(e)(1) of the Federal Communications Commission's regulations.¹ The FCC has opened the Petition for Waiver for comment.

The Pennsylvania Office of Consumer Advocate (PaOCA) represents the interests of Pennsylvania telecommunications consumers at both the state and federal level.² The PaOCA supports grant of the relief requested by Palmerton and NEP. The PaOCA submits that good

¹ 47 C.F.R. § 54.301(e) provides "Submission of true-up data. Each incumbent local exchange carrier that has been designated an eligible telecommunications carrier and that serves a study area with 50,000 or fewer access lines shall, for each study area, provide the Administrator with the historical total unseparated dollar amount assigned to each account listed in paragraph (b) of this section for each calendar year no later than 12 months after the end of such calendar year."

² See 71 P.S. § 309-4.

cause exists for the FCC to grant waiver of the Section 54.301(e)(1) submission deadline to allow Palmerton and NEP to receive Line Switching Support (LSS) based on their late filed information for the 2006 period.

As stated in the Petition for Waiver, Palmerton and NEP are small rural incumbent local exchange providers serving 10,580 and 11,947 access lines, respectively, in Pennsylvania.³ According to the Petition, the carriers filed their 2006 LSS data late, after the deadline set by Section 54.301(e)(1), “due to a unique set of circumstances involving pool participation and miscommunication between ICORE [their consultant] and NECA [National Exchange Carrier Association].”⁴ As a result of the inadvertent missed deadline, Palmerton and NEP indicate that they are presently ineligible for receipt of approximately \$324,354 and \$382,123, respectively, in expected LSS for 2006.⁵

The PaOCA submit that the facts set forth by the Petition for Waiver establish good cause for waiver of the regulatory deadline. The FCC’s rules may be waived for good cause shown.⁶ The Commission has exercised its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁷ The PaOCA notes that Petitioners have explained that in 2006, they were not part of the NECA Traffic Sensitive Pool but changed their status and joined the NECA Traffic Sensitive Pool in 2007 before the deadline for filing of the 2006 LSS true-up data.⁸ This transition resulted in a misunderstanding as to NECA’s

³ Petition at 2.

⁴ Petition at 2.

⁵ Petition at 7.

⁶ 47 C.F.R. § 1.3.

⁷ In the Matter of Federal-State Joint Board on Universal Service, Illinois Commerce Commission’s Petition for Waiver, Farmers Mutual Telephone Company Petition for Waiver, Petition of the Wyoming Public Service Commission for Waiver, CC Docket No. 96-45, Order at ¶ 10, n. 44 (rel. Apr. 21, 2008), citing Northeast Cellular Telephone Co. v. F.C.C., 897 F.2d 1164, 1166 (D.C. Cir. 1990). The FCC granted waiver of deadlines related to other provisions of the Universal Service regulations, where the failure to make timely filings was the result of misunderstanding and administrative error and grant of the waiver would promote the provision of universal service.

⁸ Petition at 2-4.

responsibility for filing data for the 2006 true-up period.⁹ The PaOCA supports the Petitioners' contention that the circumstances are unique and not likely to recur. The PaOCA agrees with the Petitioners that a failure to receive the estimated 2006 LSS amounts would impose a hardship on Palmerton and NEP and might negatively impact their provision of local exchange and access service to their rural Pennsylvania customers. Palmerton and NEP's local exchange rates are subject to price cap regulation at the state level. Palmerton and NEP have also worked to meet state universal broadband deployment mandates by the end of 2008.

A waiver or departure from the regulatory deadline will serve the public interest by allowing the Petitioners to receive the financial support from the High Cost portion of the Federal Universal Service Fund which they would be eligible for, but for the administrative error and untimely filing of the 2006 LSS true-up data.

WHEREFORE, the PaOCA supports grant of the Petition for Waiver filed by Palmerton and NEP as in the public interest and consistent with the provision of universal service to rural Pennsylvania consumers.

Respectfully submitted,



Barrett C. Sheridan
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⁹ Id.